

CAAAC MEETING NOTES 12/04/2012
Metcalf Building, Room 111, 1:00 p.m.

Compiled by Oline Barta

ATTENDEES: Jim Parker, *PPL Montana*; Dexter Busby, *Montana Refining Co*; Gail Abercrombie, *Gaila Consulting*; Dave Galt, *Montana Petroleum Association*; Jeff Chaffee and Hal Robbins, *Bison Engineering*; Kim Davitt, *American Lung Association*; Ross Whelchel, *NorthWestern Energy*; Anne Hedges, *MEIC*; Greg Gannon, *Holcim*; and Mark Lambrecht, *Treasure State Resource Industry Association (TSRIA, formerly WETA)*. Go-To-Meeting attendees were: Bill Mercer, *Holland and Hart*; Jon Madison, *MDU*; Russ Boschee and Clark Snyder, *Riverstone Health*; Randall Richert, *Phillips66*; Greg Brown, *CHS, Inc*; Kathy Ayala, *Region 8 EPA*; Stacy Aguirre, *Continental Resources*; Joe Lierow, *Exxon Mobil*; Todd Senescall and Jill Linn, *WBI*; and Ed Santos, *Aspen Consulting & Engineering*. DEQ attendees were: Eric Merchant, Dan Walsh, Chuck Homer, Bob Habeck, Deb Wolfe, Hoby Rash, Debbie Skibicki, Annette Williams, Dave Aguirre, Lacey Evans, Shawn Juers, Whitney Jurenic, Stephen Coe, Eileen Steilman, Norm Mullen, Becky Frankforter, and Oline Barta.

I. WELCOME AND INTRODUCTIONS: Eric Merchant welcomed the group and asked people around the room to introduce themselves. He then called roll of the phone attendees. He said the information would be presented informally and encouraged CAAAC members to ask questions.

II. BUREAU AND FEDERAL RULEMAKING: Stephen Coe updated the group on the Ozone NAAQS Implementation Rule saying ARMB had taken this before the Board of Environmental Review (BER) with a SIP call two months ago and it is pending submittal for EPA approval. Deb Wolfe said the Annual Incorporation by Reference Rule would go before the BER this coming Friday for final adoption for the 2010 edition of the Code of Federal References (CFR).

- **Mercury Air Toxics Standard (MATS)** Debbie Skibicki said that the latest developments in the Utility MATS were proposed in the Federal Register yesterday. She said that most of Montana's sources would not be affected and Montana wouldn't comment on changes for new sources, but her section would be looking more closely at startup and shutdown issues. Debbie expected the new standards to eventually be incorporated by reference. She said that a few facilities had expressed interest in applying for a 1-year extension to install pollution control. Jim Parker asked if DEQ had an extension form. She replied that she had been working on something that she could send to him. She said EPA has also considered an additional 5th year extension which would be more complicated to obtain but may be needed if control equipment parts run in short supply. Eric noted that Debbie was the expert and the appropriate contact person on mercury standards.

- **Green House Gas (GHG)** Chuck Homer said that the new GHG New Source Performance Standards (NSPS) comment period was open between April 13 and June 12. He said Montana did not comment.

- **Oil and Gas NSPS** Dave Aguirre noted that while the agenda item refers to Subpart OOOO, the federal oil and gas rulemaking addressed more than just Subpart OOOO. He said that existing Subparts KKK and LLL regulate onshore natural gas processing plants and the subparts were modified to only apply to existing facilities. Dave noted that Subpart OOOO would cover new natural gas processing plants and that Subpart OOOO requirements are more

stringent than Subparts KKK and LLL. Dave said Subpart OOOO also puts standards on equipment in the oil and gas sector that had never had NSPS standards before, like hydraulically-fractured natural gas wells, compressors, pneumatic controllers and storage vessels. Dave said the oil and gas sector rulemaking also made modifications to NESHAP Subparts HH and HHH which affected glycol dehydrators. Dave said the rules are final; however, he noted that EPA has been petitioned for reconsideration and a stay and that the courts have been petitioned for judicial review. Dave stated that while the petitions are pending, the rules would have to be followed until such time as a different direction/decision came from EPA or the courts. Dave Galt asked whether the registration program would have to be amended as a result of NSPS Subpart OOOO becoming final. Dave Aguirre said the OOOO requirements are very similar to those in Montana's registration program. Dave noted that EPA is on record as stating that industry may rely on state requirements in determining applicability of Subpart OOOO. Dave said that it is really up to industry to determine which control requirements (registration or OOOO) they would like to use in determining a facility's potential to emit. Dave stated that companies have predominately used the registration program control requirements in determining potential to emit and at this time he did not think that the registration program would need to be amended for that reason. Stacy Aguirre asked if there was a slide regarding Dave's discussion topic. Dave stated that there was not, but that he would post the notes that he was speaking from with the CAAAC meeting minutes. The notes are below:

Final Oil and Gas Sector NSPS/MACT Summary

Proposed: 08/23/2011

Final Signed: 4/17/2012

Published in FR: 8/16/2012

Effective Date: 10/15/2012

- 10/15/12 - EPA petitioned for reconsideration and a stay has been requested
 - Court has been petitioned for judicial review
- NSPS
 - KKK – VOC Equipment leaks onshore natural gas processing plants
 - Clarifying only applicable to existing sources (subject to prior to August 23, 2011)
 - LLL – SO₂ Emissions from onshore natural gas processing Plants
 - Clarifying only applicable to existing sources (subject to prior to August 23, 2011)
 - OOOO – Crude Oil and NG production, transmission, and storage
 - Natural gas wells (hydraulically fractured)
 - Compressors
 - Pneumatic Controllers
 - Storage Vessels
 - On Shore Natural Gas Processing Plants
 - Equipment Leaks (LDAR)
 - Sweetening Units (SO₂)
- NESHAPs
 - HH – Oil and NG Production facilities
 - Small glycol dehydrators, storage tanks, & valves
 - HHH – NG transmission & storage
 - All glycol dehydrators

Eric suggested Dave address the update of the Registration program SIP submittal at this time. Dave summarized that the Registration program rules were originally submitted to EPA for inclusion in Montana's SIP in 2006 and that EPA eventually proposed to disapprove the program in January 2011. Dave said that Montana withdrew the SIP submittal in March 2011, with the intention of completing a Clean Air Act section 110(l) analysis and resubmitting the Registration program within 6 months. Dave explained that a 110(l) analysis is a demonstration that a SIP change is not less stringent than the current SIP requirements, which EPA refers to as "backsliding." Dave stated that Montana resubmitted the registration program, including the 110(l) analysis, on September 23, 2011. Dave noted that EPA published its proposed approval of the Registration program on November 13, 2012. Dave reiterated that it is a proposal at this time and that public comments are due by December 13, 2012. Dave said that EPA is required to take final action on the registration Program SIP submittal in March 2013.

As Deb Wolfe addressed the group on the rule making process she set out a "Suggestion Box" to illustrate the Bureau's need for feedback from the CAAAC in order to effectively do a needs assessment. She encouraged feedback both positive and negative concerning the group process, how it could be improved. Eric added that the Bureau is undertaking an internal process to examine the rules, priorities and needs assessment to be able to take a more proactive stance in the constantly changing regulatory world. He asked for any suggestions that help us better understand the stakeholders' needs or may make ARMB more efficient.

III. STANDARDS UPDATE:

- **NO₂** - Eric Merchant spoke about the NAAQS which are being revised on a 5-year schedule. He said the primary standard for NO₂ was promulgated in January 2010. Montana made designations in February of 2012 and received notification from EPA agreeing with the designation of all counties as attainment or unclassifiable. He said that an infrastructure SIP was due three years after the promulgation which includes a state evaluation of the infrastructure elements in 110(a)(2) of the Clean Air Act. He said that the SIP will be due January 2013 and is posted for public comment now. Eric noted that no area in the country has a problem with the new NO₂ standard.

- **SO₂** - Eric said that Montana submitted a designation of all counties as attainment or unclassifiable even though we have a violating monitor in the Billings area. EPA has made no response. He said that EPA expects Montana to submit a 110(a)(2) infrastructure SIP by June of 2013. He said that in areas where there are large sources and no monitoring information, EPA may require DEQ to submit some kind of maintenance demonstration which may include modeling. He is hoping for more information soon from EPA. If EPA disagrees with Montana's designation, ARMB would need to make an attainment demonstration by January 2014.

- **Ozone** - Eric told the story of how EPA failed to inform the states in a timely manner regarding the fate of its lawsuit and consent decree negotiations with Wildearth Guardians. The miscommunication caused Montana and 40 other states to miss the deadline for submitting Ozone infrastructure SIPs. Litigation of the 2008 Ozone standard had delayed certain timelines, and states were waiting on EPA for more information. Eric noted that this was not a communication problem between Montana and the regional EPA office. He said the infrastructure SIP is out on public notice at this time and EPA accepted the designation of all Montana counties as attainment or unclassifiable; only South Dakota has the same situation.

Eric mentioned some upcoming dates for NAAQS revisions which included a proposal for ozone in the fall of 2013 followed by a new standard for ozone in the summer of 2014. He said a new standard for lead would come in the fall of 2014. Eric asked for questions on the NAAQS updates. Jim Parker asked if EPA's delaying of the SO₂ designation would affect the maintenance SIP dates. Eric thought that was a good question, but didn't have an answer at this time. He said that under current timelines, ARMB should begin developing the infrastructure SIP for June 2013 submittal, but we don't have all the information we need, including guidelines. Still, Eric thought we should learn from the Ozone violation and not assume deadlines will change.

- **PM2.5** - Eric said the revised PM2.5 NAAQS proposal would be due December 14, 2012. He said the annual standard would change from 15 micrograms per cubic meter to 12 or 13 micrograms per cubic meter. He expects that even at the lower number, all counties would attain the new standard, including Libby. Eric said the 24-hour standard will remain the same at 35 micrograms. Still, some communities in Montana's western valleys, including Helena and Butte, may reach nonattainment due to residential wood smoke. By December 14, 2013, EPA will require ARMB to make a designation for all counties. Eric said a visibility standard is also now associated with the PM2.5 standard which is 28 to 30 deciviews (a yardstick for measuring visibility).

- **Exceptional Events Rule Implementation** – Eric mentioned the importance of flagging data affected by wildfire smoke, especially in a bad wildfire year like this past one.

- **Open Burning Program Updates** – Eric said the permitting program regulates the major and minor open burning sources as part of a state effort to control PM2.5 emissions. The program is now being updated to become more web-based and less dependent on individual phone calls. Information is available at www.burnclosures.mt.gov. He told attendees to contact Open Burning Program Permitter Shawn Juers or Meteorologist Lacey Evans with any questions.

- **Residential Wood Stoves** – He said the NSPS standards for residential wood stoves have not changed since the late 1980's. Eric recently attended a conference in Minneapolis on residential wood stoves where he gave a presentation on Montana's situation with wood stove smoke as a case study to encourage EPA to set new NSPS standards. Eric said that studies indicate 70-80% of the ambient PM2.5 concentrations in Helena and Butte are caused by residential wood stove burning and it will be very hard to come up with a control plan without the help of the wood stove manufacturing industry. He believes that as the CO problems in the state were abated by cleaner cars, the wood smoke problems will greatly improve with better wood stoves.

IV. STATE AND FEDERAL IMPLEMENTATION PLAN ACTIONS:

- **Regional Haze Federal Implementation Plan (FIP) Update** - Debbie Skibicki said EPA's Regional Haze FIP was published and final in the Federal Register in August and the effective date was September 18, 2012. Debbie said ARMB was waiting to see if Montana's FIP would be litigated as is the case with many states. Members of the group confirmed that appeals have already been filed on the FIP. Debbie said that barring a stay of the FIP, it will be implemented through the Title V program. She also said that DEQ has not made any decisions about whether Montana will take the Regional Haze plan back. Deb Wolfe said that EPA is planning to submit a reasonable progress 5-year report. Eric said ARMB was involved in a further progress workgroup.

V. PROGRAM UPDATES:

- **Permitting Section** – Dan Walsh said his group was getting ready to send out email requests for 2012 Annual Emission Inventories. He was happy to announce that he is retaining his staff and that Jim Hughes is not retiring yet. Dan said that this morning was the third meeting of the Compressor Station CAAAC Subgroup. He said the group was working to create some maintenance and compliance checks that would give ARMB more certainty about ongoing emissions.

- **Registration Section** - Dave Aguirre said the Registration Section was also preparing for the Emission Inventory season after completing a very aggressive inspection season

- **Data Management Section** – Annette Williams said that her group continues to try to make processes more efficient while providing support for the business processes that the other sections do. She said that one of her projects was working to improve the infrastructure of Today's Air. Annette expected to be working on this with the Department of Administration, State ITSD and DEQ OIT over the next three to six months. She is also involved in the billing and emissions inventory process.

- **Air Monitoring Section** – Hoby Rash told about his groups' unprecedented year working to fulfill three mandates, to provide air quality information to the public, to provide real data to support efforts to manage air quality in Montana and third to participate in research studies. He said they have had many more requests than usual for information because of the unprecedented amount of wildfires around the state. He said that the air quality was often impacted by fires as far away as northern California. He noted the dynamic in monitoring is very different in the summer when air masses move quickly spreading pollution than in the winter when the air and the pollution get stuck. Hoby thought the challenge was for air monitoring to become a more fluid and responsive network in the summertime.

He also mentioned that distinguishing between the normal and the wildfire-affected data involved a lot of time and collaboration within DEQ. Hoby updated the group concerning the new monitoring stations in Malta and Lewistown which are now providing PM2.5, NOX and O3 data in an area that was largely unrepresented. This data will also provide Montana DEQ with a voice in BLM's federal effort to track air pollution. Hoby said monitoring's change from analog to digital allowing remote electronic access is saving travel time and money, improving efficiency.

- **Fiscal Officer** – Becky Frankforter said bills sent out in November were due December 15, 2012. She has been fielding calls from people having trouble with the online payments.

- **Permitting Section** – Chuck Homer announced that Julie Merkel was the new Permitting Section supervisor. He said he was very glad to have her in that position and she was in the field today in eastern Montana, but would be present at the next CAAAC meeting.

- **Fee Report the BER** – Bob Habeck gave a preview of his BER fee reports. He said ARMB would not be coming before the Board with a new fee rule this year; the fees have not changed since 2009 in response to the economic downturn. He went on to explain that ARMB is balancing revenue intake with expenditures, balancing priority projects with deferred projects. He said the Bureau limits training, travel and keeps some vacancies open to save revenue. Bob did not commit to what would happen with fees next year. He said our revenue came mainly from fees and EPA 105 grant money and there have been lots of cutbacks in industry and

associated emissions. Bob added that DEQ was going to request a 10% decrease in revenue appropriation. He said Chuck will lead a CAAAC group to try to diversify the fee structure and any CAAAC member could join.

- **Fee Structure Evaluation CAAAC Subgroup** – Chuck said the original fee system based on emissions worked well for a long time until we had a severe downturn in the economy and emissions began to decrease markedly. ARMB went from charging for 100,000 tons of emissions to 60,000 tons because of reduced emissions and facility shutdowns. He said now we have to look at the whole system; we started the process a few years ago with the Fee subgroup. He stressed the importance of member involvement in this subgroup because this is a system to fund ARMB which provides services to CAAAC members. Chuck said ARMB will run short of funding in the next biennium. Dave Galt asked if Chuck had a spreadsheet. Chuck replied that he did not have one at this time, but would be creating one. Dave asked Chuck to explain what he meant by appropriation. Chuck responded that ARMB's appropriation is the authority given by the Legislature to spend money; it is tied to money only if the legislature also provides the money from the general fund. For ARMB, appropriation is the permission to spend funds. For the past few years, he said, we haven't spent our appropriation because our revenue collected from fees and grants did not equal our appropriation.

- **2013 Legislative Session Update** – Chuck said ARMB did not have any bills proposed by the Department, but would continue to watch draft bills. He said that EQC has proposed to disband the Air Pollution Control Advisory Council (APCAC), the long-standing governor-appointed advisory council. Chuck said the only other budgetary measure DEQ had was a proposal to increase general fund money to counties. Norm Mullen reminded Chuck that the APCAC bill contained language that required all rule changes to go to public hearing.

VI. ADDITIONAL BUSINESS

Eric closed by reminding CAAAC members that ARMB needs and wants information from them.

Gail Abercrombie asked if the county funding was for air quality programs. Chuck said yes.

Jim Parker said he thought this was a great forum and that even if comments were not always forthcoming, the information was appreciated.

The next meeting was planned around the Legislative session after transmittal as early in the afternoon as 12:30 p.m. Eric will send out proposed dates

Eric thanked CAAAC members for attending and participating.